

HOLT (Jos.)

# PESTILENTIAL FOREIGN INVASION,

— AS A —

## QUESTION OF STATES' RIGHTS AND THE CONSTITUTION.

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THE FAILURE OF THE MARITIME STATES  
DEMANDS A COMMON DEFENCE.

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### AN ADDRESS

Delivered before the Tri-State Medical Society of Georgia, Alabama and  
Tennessee, at Chattanooga, October 26, 1892.

BY JOSEPH HOLT, M. D.,

OF NEW ORLEANS, LA.

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*Gentlemen of the Tri-State Medical Society:* In responding to your desire to discuss the question of our common defence against the invasions of foreign pestilence, I am unwilling in a mere personal capacity to address myself to a subject so momentous in consequences, so comprehensive of the general welfare, involving our social and political economy, domestic and foreign. It is too vast to allow of utterances from a source claiming no higher personality than myself; I therefore appear before you as the duly commissioned representative of the commercial and industrial interests of Louisiana, a unit of the Mississippi Valley. I represent these interests in this relation, because they are balanced in fine adjustment upon the maintenance of public health by pestilence exclusion, and in testimony whereof I submit my credential:

CHAMBER OF COMMERCE AND INDUSTRY OF LOUISIANA, }  
NEW ORLEANS, October 12, 1892. }

*Dr. Joseph Holt:* DEAR SIR—It having come to the knowledge of the Chamber of Commerce and Industry of Louisiana, of which you are an honorary member, that you will attend by invitation the annual meeting of the Tri-State Medical Association of Georgia, Alabama and Tennessee, to be held at Chattanooga, the 26th inst., for the purpose of addressing that body on the subject of maritime sanitary protection; and knowing as we do your views and sentiments concerning the preservation of the commercial interests of the country, while also defending the public health, we earnestly request you to appear in a representative capacity for this organization, in furthering the work you have so successfully created and established, of reconciling the demands of both commerce and the public health, by equally protecting both.

Yours very truly,

[SEAL]

ROBERT BLEAKLEY, *Secretary.*

Permit me to acknowledge my appreciation of the honor conferred by your committee in the invitation to address you on this occasion, and to thank you for the opportunity so happily afforded of discussing with you perhaps the most important problem now pressing upon the American people as an imperative necessity demanding an immediate solution; a necessity which compels the

attention of the merchants, the scientists and statesmen of the interior as peremptorily as of the inhabitants of the exposed maritime coast. It compels a more modern recognition of the fact that our nationality is something more than a mere political fiction arranged as a halo around the State, and that in all matters of the general welfare we are a unit for weal or woe, whether manfully acknowledged or not.

Our wisest medical observers, guided by historic experience, have proclaimed a timely warning, in this lull of peace to prepare for war when next summer's heats shall quicken into malignant activity the dormant forces of Asiatic cholera, now wintering in a thousand foci in the slums of Europe and in holds of filthy ships, to be set free upon the highways of traffic when the conditions of epidemic spread shall favor the invading march of its deadly battalions. The allied forces of yellow fever, whose history of conquest needs but to be mentioned to make us tremble, are at this moment hovering along the nearest tropical approaches of the line from San Diego to Baltimore, with destructive menace.

When I contemplate the record of the pestilential invasions of our fair land; the tens of thousands of the very flower of its people swept into untimely graves; the industrial prostration and commercial losses, aggregating hundreds of millions of dollars; the protracted anguish of mind and body; when I recall to mind the general wretchedness, the public consternation and social disturbance dethroning reason and mercy, while installing anarchy ruled only by the frenzy of terror, with its shotgun quarantines and other revolting displays of the savage cruelty of cowardice, the ferocious exhibition of "man's inhumanity to man;" contemplating this historic detail of horrors, I stand appalled in the awful presence of the past, overwhelmed as in some vast cavern with the very bigness of the calamities which rise out of the darkness as dreadful spectres before me. My fears grow with



contemplation, for reminiscence conjures into hideous pictures of reality, scenes of suffering and of death.

Oh, the terrors of the ordeal! the distress, the unutterable anguish, the intoxication of horrors in a pestilence-stricken city, when the death-roll is increasing day by day, when desolation and the blackness of despair encompasses the sorrow-laden soul, and the world shuns you as the companion of pestilence and harbinger of destruction which "hath no covering;" for "the gates of death have been opened unto thee, and thou hast seen the doors of the shadow of death." Then it is that we drain the cup of woe, and taste in it the extreme agony as vinegar upon hyssop, while the fainting spirit cries with a loud voice, as it would yield up the ghost, "My God, my God, why hast thou forsaken us!" On every hand the weary and the heart broken, the dying and the dead, everywhere the dead, blasted hopes, aimless existence, deserted industries, ruined commerce, blighted prosperity, poverty! This is pestilence, pictured from within; a mere shadow, a dim outline of dreadful realities. The volumes of the world's history are profusely illustrated with these pictures of pestilential invasion, more fearful to look upon than battle scenes.

Shall the volumes of the future be a continued record of pestilential sway, richly illumined, like the grotesque horrors of Dante's *Inferno*, by the feverish genius of Doré? As for others, we know not; the outside world is free to picture as it may, but for ourselves, the volumes of our future must no longer be disfigured and disgraced with these glaring tokens of ignorance, negligence and stupidity, manifest in helplessness to resist and destroy an enemy whom science has subjected to the human will.

The sovereignty of mind "over *every* living thing that moveth upon the earth" comprehends "Leviathan, when he maketh the deep to boil like a pot;" and "the pestilence that walketh in darkness," the living bacillus,

that infinitesimal pathogenic primary of cholera, yellow fever, small-pox, typhus and the whole host of malignant infections. All are given under dominion, and man, the master, is himself responsible for damages that befall himself from contributory negligence. Of all vertebrates the least equipped with natural armament and with no other guide than his own intelligence, he is hedged about with destructive forces, while inexorable nature, moving in solemn complacency, bends no law from the line of its eternal course to meet him half way and shield him from threatening harm. In the desperate necessities of self-preservation we must unfold those powers stored within us, and by their exercise bear ourselves in victorious mastery, or be dashed to atoms in collision with the material forces of natural law.

Being thrown, therefore, by a necessity of self-preservation upon the splendid resources of our own intelligence, let us deal with the agents of pestilence as material, living things, to be subjugated by our rational energies; not in misdirected and futile search for a panacea in drugs, but in the higher aim and surer direction of sanitary prevention, dispensing with dispensaries and drugs, and the services of doctors to prescribe and nurses to administer, and undertakers to undertake the final disposing of the huge percentage of inevitable mortality. As for immunity through attenuated virus, the ptomaines, and the truly wonderful announcements of Behring and Kitisato, Tizzoni and Catani concerning artificial immunity by inoculation with immune blood, so named antitoxines, it is infinitely wiser to keep out and prevent altogether these foreign epidemic filth cultures. It may be curious, perhaps scientific, but never pleasant to risk immunity with sacrifice of considerable decency in having one's food swarming with bacilli and spores of cholera, or of yellow fever and small-pox in the air and over everything, killing pretty freely the unfortunate non-immuned, and now and then snatching off even the very elect whose



supposed immunity happens to miss; a demonstrated "*experimentum crucis*" when the germ gets in its handy work. It is this *experimentum crucis* we propose to avoid by extinguishing the germ through sanitary methods, not crowding science too far on lines of immune faith.

And here let me utter for sanitary knowledge and art the sentiments of deepest gratitude to bacteriology, the mother science of the sanitary art, upon the guiding researches of whose learned, ingenious, indefatigable and unselfish workers the entire sanitary system squarely rests, and without which it would not exist. Very certain it is that scientific maritime sanitation is the direct and legitimate offspring of aseptic and antiseptic surgery, and is in no line of hereditary descent, nor acknowledges kinship with the disreputable old quarantine of detention. It is from no disrespect to bacteriology or spirit of ingratitude that sanitary science aspires to possess the field of preventive medicine, relieving the necessity for anti-toxine inoculation against foreign infections by promptly slaying the germs.

It is unnecessary on this occasion to mention severally the pestilential infections, their etiology, epidemic history, symptoms and treatment. The text books and journals teem with such accounts, familiar to us all, while our purpose now moves on a loftier plane. In regard to treatment, however, I must invite your attention briefly to a most remarkable phenomenon invariably associated with cholera and yellow fever, not mentioned in the books. With the threatened or actual advent of these two diseases there is always observed a great precursory and enveloping cloud of sure-cure prescriptions. The journals full of them; the newspapers full of them; bushels and bushels, thousands and myriads of prescriptions; the young doctor just from the hospitals, double-shotted; the old jady, the quack, the washerwoman, everybody—except the experienced old doctor—has a sure remedy; and all are satisfied, and so is cholera as it kills straight along,

scoring its 52 per cent.; and yellow fever from 15 to 50 per cent. mortality, just as in the good old days of sixty years ago. How far the antitoxines will come in to play their immune parts I fear to guess; but my prophetic misgivings place them close beside poor Kibbe, on his cold spray, yellow fever cot, a glorious martyr of an inglorious martyrdom, the hero of an error.

Perhaps I am ahead or woefully behind the times; but age and unhappy observation in pestilential epidemics have so enfeebled my therapeutic zeal of greener days, those callow days of faith, as now, in my maturer years, to force a transfer of hope and expectation from the fond dreams of pharmacopœia to higher sanitary realms. I have moved so far toward that beyond, were I now compelled to step down from the lofty plane of Preventive or State Medicine to the lowly level of writing prescriptions for Asiatic cholera and yellow fever patients, then would the desolation of disappointment be my abode and humiliation cover me as a pavilion.

I know doctors, and have an abiding respect and admiration and affection for them because I do know them; I also know yellow fever, and Asiatic cholera, and small-pox, and typhus, and have a dread respect and a grewsome admiration, so to speak, for them, because I know them, and knowing them, I earnestly offer my advice to the American people to indulge in no delusive phantoms of hope or exalted expectation in doctors of any degree, school or calling, or in any methods of treatment, drugs and doses in pestilence, if they can help it; but to rest an everlasting faith and hope in the saving sufficiency of intervening space, plenty of space, with our people on one side and pestilence on the other! The cause of all the trouble has been the crowding of cholera, yellow fever or small-pox and people all up in a jumble together; the remedy is to keep things orderly by keeping them apart.

Intervening space will cost a little money; but even that little the maritime States, with two or three excep-



tions, have persistently refused to supply, preferring to let the entire country run any desperate chance than tax themselves the outlay of a sufficient appropriation to provide a thorough equipment (and less than thoroughly invites disaster), with a non-partisan administration of its sanitary defence. A sanitary dead line, including every port of entry of the United States, fully equipped and always ready for defence, is the only space that can ever intervene between the American people and foreign pestilence. It is the only certain prophylactic, infinitely to be preferred as an antitoxine to the inoculations of Kitisato, Koch, Freire, Haffkine, or any other kind of foreign inoculation, for we are already socially, politically and physically the national victims of too much foreign inoculation of poisonous extraction, which threatens more disastrous consequences than pestilence itself.

Consider what a scientific and glorious remedy is offered in a continuous and vigorously maintained national sanitary dead line; no cases, hence no attending physicians to prescribe, no methods of treatment or doses, and no nurses to administer, no funerals or newly bereaved widows and orphans, no disturbance of social order, no panics, or display of official brutality or inhuman cowardice, no suppression of industries or injury to commerce, no ruthless bursting of iridescent State bubbles and sudden exposure of general vacuity and frightful emptiness of preparation in scientific appliances and technical skill. We should no longer see the needless and wanton exposure of sixty odd millions of our people to disease and death; no barbarous mismanagement and outrageous infliction of hardships and perils, which could easily have been avoided; no hideous mob display or need of military repression; no engendering of acrimony by violations of interstate and international comity.

Resting securely within the girdling dead line of an evenly administered national sanitary defence, the fruits of



industry and all the quests of livelihood and social interchange shall move in a steady flow through the pulsating currents of human affairs, unretarded and unmolested by pestilential touch.

Let us consider, too, that this instrument, so potent for good and safeguarded against mischief, may be employed at no greater expenditure than the one-thousandth of one per cent. of the extravagant cost of a single season's epidemic waste: and requiring no inventive genius or outlay in experimental effort, but only a judicious investment in quarantine plants liberally equipped with all the apparatus of scientific requirement.

Time and disasters have abundantly demonstrated the unreliability and total insufficiency of the disjointed and disconnected quarantines dotted along the vast periphery of our maritime boundary: each independent in its methods, most of them without method, or if supplied with it, absolutely without equipment, and therefore without practical scientific existence; a quarantine merely in name with the States' authority to annoy commerce and impose fees and fines on shipping for sanitary services impossible without elaborate and costly appliances, therefore merely a legal fiction, a momentous national responsibility made everybody's business, and, therefore, in general effect nobody's business: one responsibility under many heads and nearly all of them the official creations of local politics, and political favor, appointed and removed by the local powers that happen to be; ever changing, therefore having small incentive to excel. Such is our bulwark of State maritime sanitary defence: as unstable, as water in theory, method, official intelligence, morality, integrity or any other quality of assurance.

This is a faithful picture of an existing fact, and what else could be expected along so extended a line of free and independent sovereigns, free to do as they please and entirely independent, each in its individual notions and method of administering a great national duty apper-

taining to international and interstate commerce and the general welfare.

The American people are weary of procrastination and dallying delay in a firm and decisive assumption of an imperative national duty compulsorily imposed by the Constitution, both in the spirit of its preamble and in the letter of its provisions, through which the people in their entirety must look to themselves for the enforcement of the common defence, the promotion of the general welfare and the insuring of domestic tranquillity.

No foreign invasion from hostile fleets could possibly work such wide-spread violence to the general welfare or more tremendously disturb our domestic tranquillity than foreign invasions from pestilence; the whole people are aroused by the closeness of their escapes from a general devastation of yellow fever in 1888 and of cholera a few weeks ago, and will presently demand the surest possible protection, guaranteed to us in the speediest applied, the most uniform and scientifically trustworthy manner of the highest attainable efficiency.

I speak to-day in behalf of general protection to be afforded the States of the interior through the sanitary safety of the seaboard. I speak in behalf of the commerce and industries of the Mississippi valley from the lakes to the gulf; in behalf of a principle of equitable dealing, which demands the equal distribution of a common responsibility and attending expense, and that the duties of the many shall not be imposed upon the few; that Louisiana, California, Alabama and South Carolina shall no longer bear the burden of efficient quarantine defence which should be extended along the entire national boundary. Not only do I plead the injustice of the burden, but the futility of their effort if defensive barriers are lacking elsewhere along the line: for protection to be complete must be equally provided and uniformly administered along the whole line of exposure; whereas now, their laborious efforts are threatened with failure because of general negligence elsewhere along the line.

In corroboration of this allegation I will offer here a brief extract from a report of the International Quarantine Inspection Commission after a thorough examination of the quarantine establishments of the St. Lawrence and Atlantic coast, in September last: "We have carefully examined every station on the coast as far down as this point [Deleware Breakwater], and find that much the same conditions exist everywhere.

"Not a single station is supplied with appliances for cleaning and disinfecting ships. Only a few have facilities for disinfecting baggage, while nearly all have poor hospital accommodations.

"The commission furnished the authorities of each port its conclusions and recommendations, and in every instance it was urged that a quarantine of exclusion be maintained until the station could be equipped for such treatment of passengers, baggage, cargoes and vessels as would meet modern requirements. It was also urged that such equipments be pushed during the autumn and winter, that they might be ready for next year, when the danger from cholera will be great.

"A quarantine of exclusion should not be necessary at a port properly equipped, and it is not to the credit of a country like ours that we are forced to resort to it. With preparation safety may be had with little interference with commerce and travel. This is well shown at New Orleans, which has the most complete quarantine system in the world.

"Under the old methods, with an attempted quarantine of exclusion during the hot months, that city had yellow fever, year after year, while with the modern methods the disease has been kept out for twelve years and commerce has been kept free."

The deficiencies alluded to have been called to the attention of Congress and the several State Legislatures year after year, but without result. It costs money to equip a quarantine station, and in the absence of immediate danger, this has been difficult to obtain.



Most of the stations are under local control, and the efficiency and method of enforcement of the regulations vary greatly. The stations, taken as a whole, constitute our only defence against the introduction of plagues, and as a chain is only as strong as its weakest link, our preparation to keep such plagues out must remain imperfect until such weak points can be strengthened.

“ I think all the sanitary authorities in the United States agree that a department of public health at Washington, is a necessity that will doubtless claim the attention of Congress next winter.”

This commission was composed of Dr. J. N. McCormack, of Kentucky, its president; Dr. Irving A. Watson, of New Hampshire; Dr. Henry B. Baker, of Michigan, and Dr. Peter H. Bryce, of Ontario.

In further corroboration I will quote from a letter received by me from Dr. Irving A. Watson, a member of this quarantine commission and secretary of the American Public Health Association. It is dated at Concord, N. H., October 4, 1892.

Embodied in an expression of friendly regard, he says: “ I am very glad that you have returned to New Orleans with renewed energy and an unwavering determination to wage a sanitary warfare to the end. I certainly hope you will not cease your efforts until every American port is as well equipped as New Orleans to resist the invasion of pestilential diseases. It is a lamentable fact that with a very few exceptions—perhaps I ought to say with one exception—the ports of the United States are not scientifically equipped as respects maritime sanitation. How the remedy is to be brought about I do not know, but it seems to me that we must insist upon some national legislation at the next session of Congress that will strengthen the weak points in our coast defences.”

Here then is a complete exposure and arraignment by the most competent and very highest official authority, of the whole quarantine service as assumed and administered

by the several States themselves; a failure of preparation, and that, too, in the face of the open approach, day by day, of Asiatic cholera, and the most deliberate and portentous warning ever heralded to a people; never in the history of the world was an invasion so instantaneously and momentarily recorded. On time and as duly advertised the cholera struck our shore, not in some obscure inlet of entry but in our central, richest port, there to find the extremest poverty of unpreparedness. The world knows the rest! Had it struck in neighboring ports it would have found the same.

Could there be imagined in any of the concerns of life a more deliberate and stupendous failure of States to perform an assumed duty? What greater incentive than Asiatic cholera could have moved them from inertia to action, or what possible guaranty can they now offer of future trustworthiness? Absolutely none.

It is an established principle of law that wherever a person, corporation or government, voluntarily or as an agent, undertakes to perform a service (or is what the Roman law called a "mandatory") he is bound to bring to the performance of such service that amount of skill and care which the service reasonably demands. The fact of the service being gratuitous does not alter the degree of care required; more especially in the performance of a duty involving personal and public dangers, and requiring more than ordinary skill and care.

Through a protracted trial of many years in the assumed operation of a Federal function, the States, with two or three very recent exceptions, have disastrously failed all along the historic course, while epidemic after epidemic of yellow fever and cholera has spread from the seaboard inland. These maritime States have historically failed, and, through conclusive proof of inability to accomplish, have forfeited every claim to further indulgence in the custody of so great a trust. It matters not what may have been the ground of their assumption, they have

failed; failed in their trust, and there is no alternative but that the sovereign people through their Federal authority must commit this trust to a higher custody, where it rationally and rightfully belongs.

In making these remarks in behalf of a great public trust I am well aware of the mortal offence they may give some little coteries of local officials and political accidents. Before the vast interests centred in the quarantine protection of the United States, mere local influence and these emolument-seeking individuals are as idle dust in the balance, only to be brushed out and not permitted for an instant to weigh against tens of millions of people with their hundreds of millions of invested capital.

The State quarantine history of our country is a chronological record of pestilential appearances and epidemics, along with arbitrary inflictions upon commerce, in some places destructive of extensive branches of trade and associated industries; it is a long chapter in the history of yellow fever and cholera, furnishing the only explanation of retarded progress in regions exceptionally favored in climate and richness of resources. Until the invention and inauguration of the modern "system of maritime sanitation," opening the valley of the Mississippi to the commerce of the world, and keeping its portals open every hour of every day since, the quarantines, without exception, were a mere show of defence. In practical effect they have reversed theoretical intention and have become barriers to commerce and highways of pestilence, their protective value depending wholly upon the primitive prolonged detention, with superstitious conjurations of sulphurous and carbolic smells, and burning caldron incantations in dark and cavernous holds. The high priests of these mysteries have promptly exacted tithes for ceremonial services rendered, and thus has commerce been preyed upon in the name of sanitary protection. In some parts collecting quarantine fees seems to be the only function, while in



others even long detention of filthy and infected ships has brought such disappointment as to compel the substitution of non-intercourse for quarantine in ultimate confession of failure.

With such a record and assurance of its continuance clearly before us, the time has fully come when necessity imperatively demands a radical change by the assumption of respective duties by the nation and the State, and no **divided responsibility**.

A mixed responsibility in such affairs has never succeeded and indeed cannot. If the State attempts a national function and the nation reciprocally interferes with the internal health affairs of the State, professional punctilio and jealousy soon clash and the malevolence of each neutralizes both.

The converse of this is equally true: if the national government assumes and exercises its lawful obligation in the sovereign control of a Federal jurisdiction concerning this matter, while the State vigorously busies itself with its own internal sanitary affairs, they render mutual aid in **concord of effort for the general welfare**.

On this rock of mixed responsibility Congress wrecked its National Board of Health, in the sad attempt to placate certain States by acquiescence in a partial recognition of an imaginary and vociferously asserted reserved right.

Instead of asserting and exercising its own authority in constitutional lines clearly established by precedent, Congress attempted to associate harmoniously State and Federal responsibilities by an indulgent mixing of functions; the State continuing its management of maritime and interstate quarantine; while the National Board of Health operated under a defective law which granted no specific authority to perform clearly defined duties but was vaguely directed to co-operate with local health boards, but was unable to meet contingencies of urgent kind except through appeal to the president. Rigorously forbidden its normal field of action, the National Board, to be seen

and felt, busily obtruded itself—according to its own confession—in a systematic espionage upon health conditions within the States; and, only finding its “compensation during the time when actually engaged in the performance of their duties,” was exceedingly diligent in hunting for germs, telegraphing startling accounts of direful threatenings, and constantly engaging in sharp interchanges of criticism, together with animadversions upon local organizations, and persons and things. The defective instrument of a defective law, such in practice were the functions of supervising and other subordinates, located and operating within the police limits and arrogating in effect, and sometimes offensively, the actual reserved power of the State.

Such a board failed because it was born of timidity and compromise, and had to fail, burnt up by its own faulty construction and intense friction engendered by power out of place, a lost force with friction and pain.

No purer patriotism or broader humanity ever conceived or designed an instrument of nobler purpose than was exhibited in the creation of the National Board of Health, nor was the failure in any sense a discredit to any one concerned. Responding to a prodigious public demand in a time of great epidemic disturbance, without precedent, planned and organized in the face of a strenuous opposition, compelling an extreme caution resulting in an act formulated tentatively and with extreme timidity, it is not surprising that inherent faults, clustered about the central error of mixed function and divided responsibility, finally swamped the usefulness of the National Board of Health in a sea of popular disfavor.

No one perhaps more vigorously resisted and fought that National Board than did I myself as the responsible head of the Louisiana State Health Department, for reasons of clearly foreseen danger growing out of these organic errors in duties not definitely established within lawful limits, and therefore unharnessed powers of mis-

chief to the commerce and general welfare of the Mississippi valley, particularly if by a further extension of authority that board had been made the custodian of the maritime quarantines, which were then, as generally at present, merely quarantines of sanitary pretence and arbitrary detention. We were in no manner practically guarded against a mischievous exercise of power already manifesting an aggressive disposition.

My hostile resentment and judicious fear were not against the principle of national control, but against the dangerous instrument devised and the power of arbitrary prolonged detention, as fully set forth in my address to the Louisiana State Senate in relation to quarantine improvement, June 26, 1884; which was a vigorous protest against discrimination in favor of transcontinental or latitudinal direction of trade through the Atlantic ports by placing in the hands of Eastern capitalists the power of throttling longitudinal commerce through the ports of the gulf by the instrumentality of a health board. These remarks so clearly explain the necessity of properly limiting and safeguarding a national health authority as to make them worthy of quotation here:

“On account of great disquietude for years existing between the States, particularly of the gulf, and throughout the Mississippi valley, and, at times, of the Atlantic seaboard; the general apprehension and mutual lack of confidence; these States and different communities in the States being at times in a condition closely bordering on one of actual war, with their shot-gun quarantines; the general government conceived the idea of harmonizing these discordant elements, and presently there sprung into existence the National Board.

“With true human instinct this body, unrestrained, soon displayed a grasping desire for more authority. Our people quickly saw that these national health preservers were certain to become the destroyers of our commercial interests—saw that if it were true, as is gener-



ally believed, that the powerful railroad lobby of Eastern capitalists could control congressional legislation at the national capital, how much more easily could it handle any central health board of a few men, should the inducement so to do seem sufficient to that gigantic power.

“The tremendous incentive to that course became more and more evident as the present and constantly increasing struggle for the bonanza of trade to the south of us grew in intensity between the longitudinal lines leading from the heart of the continent to the gulf ports, and the monster latitudinal railroads running to the Atlantic cities.

“With the power in the hands of a central board, selected and controlled by Eastern capitalists, to proclaim a quarantine of arbitrary detention as against vessels from the southward, the keys to the gates of the Mississippi valley would be in the possession of an agency most intensely hostile to the interests of Louisiana and the neighboring States.

“Our ports could and would be hermetically sealed arbitrarily for six months in the year, and the vast trade of the valley forced to travel by the long and expensive latitudinal lines of railroads to New York, Philadelphia, Boston and Baltimore, our commercial rivals, and hence by a tremendously extended sea voyage to the tropical ports of delivery, and the import trade forced to seek the reverse journey. In other words, the one side and the hypotenuse of a right angle triangle would have to be followed, instead of proceeding on the shorter base line.

“That these powerful aggregations of capital could thus force this immense trade from the natural channel is evident, if we consider for a moment their immense capacities to achieve the result.

“Weigh for an instant the pressure of hundreds of millions of gold upon feeble human flesh, represented in nine members of a national board, with the controlling

power presently in the hands of appointees from New York and the West.

"The great seaports of Norfolk, Baltimore, Philadelphia, New York and Boston, the whole system of trans-continental railroads would send a swarm of agents every summer into Louisiana with microscopes and chemicals hunting for germs; the telegraph wires playing day and night transmitting startling accounts of suspicious discoveries, and the public mind of the whole country whipped into a fever of anxiety as a prelude to shutting up our port, ostensibly for yellow fever, really in the commercial interests of rivals.

"Louisiana fought that National Board on the broad principles of States' rights and actual self-preservation, and was victorious." What States' right? The right to demand that "No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another," according to clause 5, section 9, of article I of the constitution.

Speaking for Louisiana as one of the maritime States, concerning an assumed task belonging to them all, I further said: "We rest under a moral obligation, to fail in which would be disgraceful and most injurious to all our relations with surrounding States." Does this obligation apply to Louisiana any more than to Florida, Massachusetts or New York?

The National Board of Health has rendered a very great service to the cause of sanitation in the United States, not only in the dissemination of knowledge and in some instances of unquestionable assistance to local authorities, but chiefly in the valuable instruction elaborated in the experimental working of its organic construction.

Having carefully noted the bearings of its machinery and points of dangerous frictional contact, it is easy to apply the lessons of experience to a reconstructed mechanism, operating on a plan strictly federal in design and limitation, and fashioned as a permanent organization, non-partisan.

The power, and with it the danger, of arbitrary prolonged detention under influences hostile to a State have been removed by the substitution of the modern "System of Maritime Sanitation" without detention, except the brief delay for prudent observation in the case of vessels direct from an infected port, not prejudicial to commerce, and the longer detention of vessels with pestilential illness on board, but always in the waters of the State.

The organic safeguards of a national board or bureau of health would compel the ample providing and enforcement of a quarantine of maritime sanitation strictly through the application of scientific methods and apparatus, thoroughly tried and approved by the exacting tests of the highest requirement and perfectly systematized throughout. Such a system, made general for the common defence, would throw about our common country the highest attainable guaranty of protection against the importation of pestilence, with the least possible exaction and absolutely no hindrance to commerce; enforcing, for quarantine maintenance, a schedule of uniform charges for uniform services. The model already existing in its perfected state, such a system can be generalized and applied for the common defence without one dollar of expenditure in experimental effort.

Concerning quarantine maintenance, while the government should pay for primary construction and equipment of stations, the subsequent maintenance should be provided through a carefully arranged schedule of uniform inspection fees and an equitable charge, a *quid pro quo*, for actual services rendered in the sanitary treatment necessary to permit entry without jeopardy to the port.

Considered alone from the position of a sound economic policy in fostering commerce, so jealously provided for and hedged about by the Constitution, shipping should not be charged quarantine dues of any kind except for quarantine maintenance, including the salaries of quarantine officers and employes; and these dues should be strictly proportioned to the services rendered.



A Federal system, such as here proposed, would be amply self-supporting. Moreover, it would remove from commerce the additional burden of furnishing the revenue to pay liberal salaries and meet other expenses of State or local health boards having no legislative appropriation and too scantily provided with income from other sources to be self-supporting while exercising the internal police functions of the State in its sanitary work.

In addition to a maritime sanitary system generalized in application under one authority as a national safeguard, and in order to relieve the very serious objection properly urged in regard to the employment of strangers in local quarantine management, who are not personally interested and in sympathetic touch with the community under their immediate care, and to avoid all occasion of offence naturally begotten of suspicion, each maritime State should have its quarantines officered by its own citizens, chosen for highest merit, determined by a rigid competitive trial of applicants by a non-political national board of examiners, preferably of the army and navy; the local quarantine staff to be sufficiently paid in order to secure the best material for the best service, and not subject to removal except for just cause or limitation of age. The supervising national board to be permanent in personnel and construction, like the Federal judiciary, and not subject to change with every incoming administration.

Within three years of its creation the quarantine force of the United States would become a disciplined corps of sanitary specialists, surpassing in scientific and technical acquirement any hygienic body in the world. It would bring the national defence against pestilence to a par with the highest modernized system of military and naval protection.

Such features embodied in a non-partisan and scientific national board or bureau of health, with jurisdiction extending to the enforcement of maritime sanitation in foreign ports of departure—where the work should properly

begin—and control of maritime and interstate quarantine defences, the gathering and distributing of sanitary information, including the health status, domestic and foreign, would solve at once the question of protecting commerce, while promoting the general welfare and insuring domestic tranquillity by providing for the common defence against foreign pestilential invasion.

The act creating such a body should organically restrain its functions to these several duties, without locating subordinates within the police jurisdiction of a State, to take cognizance of its health affairs and official behavior. Such federal functions exercised with decision and steadiness of discipline would constitute a barrier against pestilence free from honest, disinterested objections, and one that would afford to the whole American people the highest attainable guaranty of protection with the least obstruction to commerce and tax upon shipping. The State of Ohio could know precisely and at all times what regulations and methods of sanitation were being enforced along the coasts of California, Texas, New York and Maine.

In contrast, under the present no-method or go-as-you-please system (if you will permit the paradox), adjoining sea-coast States, for the most part, do not know what is going on, or what kind of defence is being made, to the right and left of them. A State board of health, controlling the quarantine, may at one time be of the highest order of intelligence and integrity, and a few months later may be removed and places filled with recipients of political favor, presently accused of speculation and likeascalities in wretched schemes and jobs; smirching a bright record of honorable achievement with a huge stigma indelibly fixing disgrace; but how can other States, although concerned, know of or prevent such changes? And yet retrogressive changes of this kind signify a dangerous menace locally and to the American commonwealth; for an intellectually and morally feeble State board means an unreliable, poorly disciplined and dangerous quaran-

tine, illustrating the maxim of Baron Jomini, in his celebrated *Principles of Strategy and the Art of War*: "The quality of the general is shown in his staff." But how is the commonwealth to know of, or restrain or punish, these negligences fostered by home politics?

In addition to inherent and fatal incapacities growing out of uncontrollable conditions of a local political kind, the States themselves are handicapped by constitutional restrictions which inhibit the exercise of sovereign control, isolating them by a specific injunction not to "enter into any agreement or compact with another State or with a foreign power," and confining each to the enjoyment of reserved rights strictly within its own geographical limit. In the practice of quarantine, State sovereignty is not commensurate with the thing to be controlled, but is hugely overlapped by the foreign extension of quarantine and commerce relations beyond the seaboard on the one side, and interstate commerce and the general welfare relations on the other; it can not cover the territory of its exterior and interior relations.

It is evident then that in the vastly extended and complex function of the international and interstate protection of the vital interests of commerce and promotion of the general welfare, the isolated State endeavors to wield an instrument of a national breadth of action while itself limited by restrictive inhibition within a narrow middle ground, totally insufficient to comprehend and successfully sustain a tremendous responsibility of a purely federal kind.

With an overwhelming array of historical evidence and ready citations of abundant local testimony to verify in every particular all that is here alleged concerning the terrific consequences of pestilential invasions, destroying the domestic tranquillity and ruinously affecting the general welfare, and the failure of the States to maintain a protective cordon, it is powerfully manifest that the deliberative wisdom of Congress can engage in no task more



imperative than that of framing an act such as will establish a national bureau, department or board of health on a permanent and solid foundation, purely scientific and wholly removed from political interference or sectional prejudice.

Concerning the inability of the maritime States to deal individually, and in a trustworthy manner of steadfastly maintained integrity, with the question of quarantine, including its vast relations at home and abroad, my views are consistently the same to-day as in times past; in evidence of which I present the following extract from the proceedings of the Trans-Mississippi Congress, held at Denver, the same being a reply to a telegram from one of the committees, dated May 21, 1891:

*“To Dr. Joseph Holt, Portland, Oregon: Do you favor a National Board of Health? Please wire in full immediately.”* My answer: *“Our social and commercial interests, interstate and foreign, urgently demand a national bureau or department of health, to supervise sanitary foreign relations, and as a medium of information and a national protective agent, co-operating with but not assuming police powers of a State vested in local health boards.”*

Bearing in mind the fact of a growing necessity of protection with increase of population, which means more food for pestilence, more people to suffer and be killed, for the cholera and yellow fever of to-day are the same malignant, epidemical contagions as of 1832, 1853 and 1878, and confronted by this exposition of our experiences of quarantine defence, and in painful view of the probabilities of next summer, we may well inquire: What are the American people going to do in their dilemma between the acknowledged power of Congress to afford relief under the regulation of the commerce and general welfare clauses, a manifest duty in a dormant state on the one side, and on the other, the repeatedly demonstrated failure of the maritime States in the exercise of a relin-

quished federal authority, a permissible jurisdiction we may say, over quarantine? Does it mean that we are to abandon our growing 64,000,000 of people, with their vast commercial and industrial interests, the public health and the public livelihood, to the mere haphazard of a lot of quarantine stations so-called: two or three of scientific merit—according to the report of the commission, and of the others, “not a single station supplied with appliances for cleansing and disinfecting ships?” Does it mean that we have reached the end of our tether, and find ourselves tied up by an assumed reserved right of a State to use sovereign pleasure in a matter of the common safety involving other States and nations beyond its jurisdictional control?

Quoting from Kent (*Jurisprudence of the United States*), also citing Cooley: “The power to regulate commerce in matters requiring a general system and uniform rule is in Congress exclusively. The power vested in Congress to regulate interstate and foreign commerce includes the right to regulate all the means and instruments by which such commerce is carried on, and which might be used by the State to discriminate in any way against such commerce. No definite rule can be laid down as to when the power is absolutely exclusive, and when, on the other hand, it depends upon an act of Congress assuming to take control of the subject. It has been said to be thus exclusive when the subject is national in character and admits of a uniform regulation.

“The States have exclusive control of all matters of purely internal concern. In general, any restrictions, direct or indirect, upon the entry into, exit from, or passage through a State, of persons, property or communications, is beyond the limit of State power. But a State law is valid the primary purpose and effect of which is to regulate a matter of purely internal concern, though it may incidentally affect interstate and foreign commerce; though Congress may at any time supersede such a law so far as

it affects interstate or foreign commerce'' (or, we may add, the general welfare). I would like to know of a subject more national in character, or one which admits of or requires a more uniform regulation, than the general maritime and interstate quarantines?

To settle at one stroke the fatuous absurdity of this remarkable notion of States' rights and its supposed police powers in the matter of quarantine control, I will ask if there exists any right of an individu which transcends the rights of the commonwealth? If there is any right of a State which exceeds the rights of other States? and please to name it; and finally, if the rights of States or the Constitution itself exceeds the rights and authority of the American people?

The reply to this inquiry completely and finally disposes of the whole question of any inherent reserved right of a State over maritime and interstate quarantine.

I have searched with diligence every word and letter of the preamble and every article and clause of the Constitution, and also its interpretation by such authorities as Mr. Randolph and Mr. Jefferson, Chief Justice Marshall, Judge Cooley, Mr. Bryce, Kent's jurisprudence of the United States, and the speeches of our most eminent senators on parallel questions, such as the national banking system and the revenue power, the protection of American industries, navigation laws, Mississippi river improvement and the education bill, and other cognate questions, and have failed to find one single justification of the idea that the State has a reserved right or even a concurrent claim to administer maritime or international and interstate quarantine.

In saying this I am fully aware that Congress, in 1797, authorized the president "to direct the revenue officers commanding ports and revenue cutters to aid in the execution of quarantine, and also the execution of the health laws, in such manner as may appear to him necessary." This creates no authority and acknowledges no inherent



right, except of the government to exercise official amenity under circumstances of that kind.

Growing out of the fundamental law of self-preservation, the right of enforcing quarantine is inherent and universally conceded as a natural right of every government in the protection of its people.

In the absence, however, of the federal exercise of this national duty, the question of the inherent or natural right of a State to protect its citizens by interposing quarantine as a bar to the importation of pestilence, and the constitutionality of maintaining the same by an equitable charge upon shipping for true services rendered in sanitary treatment, *and strictly for quarantine maintenance* alone, was affirmatively decided by the Supreme Court of the United States, May 10, 1888, in the case *Morgan's Louisiana & Texas Railroad & Steamship Company vs. The Board of Health of the State of Louisiana, intervenor*.

It is astonishing to note the prevailing confusion of notions concerning this particular form of alleged reserved right of a State. The mistake in the case has probably arisen from the fact that the federal government has allowed the States to exercise a jurisdiction, as mentioned, without argument, on the ground of expediency, because the government had nothing better to offer than the ancient method the States themselves were vigorously enforcing upon commerce, maintaining a high road for pestilence while paralyzing commerce through the old sulphur pot and carbolic drench quarantine of long detention and unjust charges. The national government shrewdly and most wisely refrained from insisting upon itself performing the very gross and disagreeable office of harassing commerce by embargoing the ports of a State, partly because the State was disposed to prefer self-immolation on this altar of Hygeia, but chiefly in order to avoid giving offence and exposing itself to the charge of secretly, desiring to "give a pref-

erence of commerce or revenue to the ports of one State over those of another.”

The maritime States, therefore, through the exercise of a permissible jurisdiction (for I can find no better term to convey the idea) and through no inherent or so-called reserved right in the use of internal police power—and they have no other—have managed, for better or for worse, usually the latter, the entire public health business, internal, interstate and international. In administering quarantine they have not done so through one of those powers exercisable concurrently by the national government and the State, but one taking effect only in the absence of a federal assumption of a constitutionally granted both direct and implied right, which we are to-day urging shall again be assumed.

The powers granted to the National Government are delegated powers, enumerated in and defined by the instrument which has created the union, and among others, Section 8, Clause 1, of the Constitution: “The Congress shall have power to \* \* \* provide for the common defence and general welfare of the United States.” In immediate connection let it be remembered,—“The mere grant of a power to Congress does not of itself, in most cases, imply a prohibition upon the States to exercise a like power. \* \* \* It is not the mere existence of the national power, but its exercise, which is incompatible with the exercise of the same power by the States.” Cooley, quoted by Bryce. “It is not doubted that Congress has the power to go beyond the general regulations of commerce, which it is accustomed to establish, and to descend to the most minute directions if it shall be deemed advisable; and that, to whatever extent ground shall be covered by those directions, the exercise of State power is excluded.” Cooley, *Constitutional Limitations*, p. 732.

The federal assumption of a delegated constitutional power supersedes the authority of the State.

So far as the American people are concerned, and it is they who are altogether concerned—for they have been and may yet be compelled to suffer and also pay for the damages to themselves—both Congress and the maritime States in quarantine failure and pestilence invasion are alike chargeable with contributory negligence in the true legal application of that term. Not only has the public health not been protected, but commerce has been unfairly taxed and mightily abused.

Before closing these remarks I can not refrain from briefly directing your attention to the close parallel between the danger of pestilential invasion across our extended line of seaboard and the necessity of uniform protection along the whole line, which can only be secured by systematizing under one controlling head with resources at command, and the danger of annual inundation along the lower Mississippi and the necessity of a uniform system of levees to keep the water off, which has been done only under one sufficient and controlling head. Without such a system under such a head Mr. B—, an intelligent and energetic planter, builds an ample and trustworthy levee along his plantation front: Mr. C—, living five miles above, does not believe in levees or the Eads theory in any form, but has a theory of his own, while Mr. A—, two miles below, would like to have a good levee, but times are too hard and the river is rising too fast anyhow. Now the question is, what becomes of Messrs B—, C— and A— before the high water season has passed? The federal government stands in relation to the several States in this matter as an authoritative head, precisely as does the riparian State to B—, C— and A— in the matter of a protective levee system.

In support of the question of federal authority in the care and management of maritime and interstate health protection, I could quote here, in conclusive evidence concerning relevant subjects, dozens of pages containing the opinions of the most eminent jurists of our country from



the inception of its constitutional and federal history, sustained by the conclusions of the civil war.

This, however, is unnecessary, since Congress has definitely settled the controversy in the creation of the National Board of Health, and repeatedly voting in subsequent sessions appropriations for its maintenance.

It is a conceded power in the spirit and letter of the preamble and under the general welfare and commerce clauses; a power that was dormant, then active, then, on account of defective legislation, dormant again; and now we come forward under a pressure of public necessity to insist upon the immediate revivifying and arousing into beneficent action this sleeping power, and also to insist that it shall be exercised through a perfected organism, competent to render all the good hoped and expected of it, while securely safeguarded from doing harm, above all by removing it from politics, and that it shall be done immediately.

In conclusion, it is historically established that the maritime States have failed to maintain a consistent line of quarantine defence, have repeatedly permitted the incursions of pestilence, from which they have been unable to afford protection to neighboring States or preserve domestic tranquillity or to respect the rights of commerce, which has been grievously oppressed. Their inability and failure through a long-tried experiment is an unalterable fact. It is logically evident, therefore, that State and national protection, harmonizing the public health with the public livelihood, can only be obtained through a common defence by organizing into one system the sanitary barriers, international and interstate, locating the controlling authority in a national bureau, department or board, organically safeguarded against concurrent mischief and rendered non-partisan.

It is evident, finally, that the purposes of this authority can only be attained in practice by the uniform application of scientific principles, typically exhibited in the

modern invention of the "System of Maritime Sanitation," thoroughly organized, tested and approved, now being operated below New Orleans, for the protection of the people, the commerce and industries of the Mississippi valley.

The demand of the American people is for protection of life and the general welfare against pestilence invasion. Before this demand all sentiments of local pride and motives of personal advantage must wither away. Perfect protection can be and must be secured in a common defence.

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[*Editorial from the "New Orleans Times-Democrat,"*  
*October 27, 1892.*]

**"PESTILENTIAL FOREIGN INVASION."**

Under the above heading we publish elsewhere this morning an address delivered yesterday at Chattanooga, Tenn., by Dr. Joseph Holt, of this city, before the Tri-Medical Association of Georgia, Alabama and Tennessee. The subject is one with which Dr. Holt is so familiar, and in connection with which his name has such deservedly pre-eminent mention throughout the United States, that his views on the question must always and everywhere command the most respectful attention.

The argument of Dr. Holt's address goes to prove that there is nothing either in the United States Constitution, or in the rights which the individual States of the Union have reserved to themselves, in any way incompatible with the creation and operation of a federal quarantine service which shall embrace all of the seaboard States. It contends that, just as the general government is charged with the duty of defending the country against the invasion of armed force, so it should charge, if it has not yet charged, itself with the duty of defending the country against the invasion of pestilence. The maritime States, which would be first attacked, in the event of an armed invasion from

abroad, would not consider it a "right" secured to them under the constitution to be compelled unaided to find the means of repelling that invasion. They would not only welcome, but they would call for, assistance from all the other States of the Union, or in other words, from the general government, as a thing to which they were entitled, to help them battle with the invading force.

In what respect is there a difference between invasion by a seen and by an unseen force, as far as constitutional rights are concerned? There is none. The same obligation, legal and moral, that would make the federal power undertake the protection of the country from the attack of a foreign fleet or army at whatever point in any one or more of the States it might choose to attempt to land, precisely the same obligation should make the federal power relieve the seaboard States of the duty of fighting single-handed against the more insidious invasion of unseen pestilence from abroad.

It is not the interest of the seaboard States alone that is involved in the invasion of pestilence. The interest of all the States, of Missouri as of New York, of Nebraska as of Louisiana, is involved in that invasion; and it stands to reason, therefore, that all the States, interior as well as maritime, should have a voice and a hand in the task of combating that invasion.

The seaboard States, moreover, have been tried and found wanting. With the one single exception of Louisiana, the committee of scientists that under the recent scare of cholera were sent to inspect and report upon the condition of the quarantine stations on the Atlantic and gulf coasts found that all the quarantine stations were more or less inefficient, and all of them, with the same single exception, inadequate to the exclusion of cholera. New York quarantine has on more than one occasion this year proved itself to be absolutely useless for the prevention of disease. Through it have passed typhus fever, small-pox and cholera in rapid succession; and if pesti-



lences in these or other forms present themselves there, with the quarantine service as it is, there is not the shadow of a doubt but that they will pass the barrier with similar ease.

The quarantine of the seaboard States having been proved inadequate, there appears to be nothing for it but that the general government take the matter in hand, and establish and maintain a system of maritime sanitation at all points on the coast that are exposed to pestilential invasion. The proved inadequacy of State quarantines is the strong and clinching argument in favor of a national quarantine. It is unjust to interior States and communities that they should at all times have to depend for their immunity from pestilential disease on the greater or less efficiency of State quarantines; why should Ohio and Kansas and Louisiana be kept on the tenter-hooks of apprehension of a dreaded visitation of cholera merely because New York quarantine is a political quarantine and about as able to keep out cholera or any other disease as the charlatan's pills were to prevent earthquake?

For all these reasons, which we have suggested rather than mentioned, as well as others which we have not referred to at all, a national quarantine should be established by the federal government and maintained at all seaboard points accessible to disease from abroad. It should be an absolutely non-political and non-partisan quarantine, conducted as one great whole by a central authority, and it should be operated as far as possible by local officers, whose sympathies would be with their particular neighborhood and whose zeal in their work would thereby be greatly heightened. And, above all things, no officer of national quarantine should ever be removed but for incompetency, or other genuine reason disconnected entirely from politics and from party.

Such is the argument, and such the advocacy, of Dr. Holt in his able address delivered last night before the Tri-State Medical Society at Chatanooga, Tenn. The

argument, as Dr. Holt has put it, is unanswerable, so far as we can see. And there is not any doubt but that it will, coming particularly from such a well known champion of State's rights as well as of thorough sanitation, convert many a hitherto opponent of a national quarantine to the hearty support of such a movement.

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